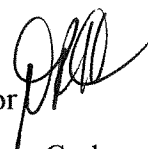




City of Loma Linda Official Report

Robert Ziprick, Chairman
Stan Brauer, Vice Chairman
Robert Christman, Board Member
Floyd Petersen, Board Member
Karen Hansberger, Board Member

CRA AGENDA: January 27, 2004
TO: Agency Board Members
VIA: Dennis R. Halloway, Executive Director 
FROM: Agency Special Counsel, Stradling Yocca Carlson & Rauth
SUBJECT: Resolution of Necessity for Property Interests at 10819 Poplar Street, Loma Linda, CA 92354; APN 0283-141-33

RECOMMENDATION

Staff recommends that the Agency Board adopt the Resolution of Necessity (Attachment A) authorizing acquisition of the land and improvements.

BACKGROUND

The City Council of the City of Loma Linda, California (the "City Council") did duly pass and adopt Ordinance No. 226 on July 16, 1980 and did thereby approve the Redevelopment Plan for the Loma Linda Redevelopment Project No. 1 (the "Redevelopment Plan") and did thereby establish the Loma Linda Redevelopment Project No. 1 ("Project No. 1"). On June 18, 1987, the City Council directed the recordation of Ordinance No. 374, adopting Loma Linda Redevelopment Project No. 2. The City Council did duly pass and adopt Ordinance No. 508 on December 13, 1994, and did thereby approve an amendment to Project No. 1. The City Council did duly pass and adopt Ordinance No. 591 on September 26, 2000 to merge Project Area 1 as amended and Project Area 2 to facilitate and coordinate the Redevelopment Agency's actions to reduce blight throughout both Project Areas ("Project Area").

The property under consideration is necessary to the Project Area because it will assist in the implementation of the Redevelopment Plan.

ANALYSIS

The purpose of the hearing is to give each person whose property to be acquired by eminent domain and whose name and address appears on the last equalized county assessment roll an opportunity to appear and be heard concerning matters referred to in Code of Civil Procedure Section 1240.030, specifically:

- (a) Whether the public interest and necessity require the project;
- (b) Whether the project is planned and located in the manner that would be most compatible with the greatest public good and the least private injury; and

- (c) Whether the property sought to be acquired (which is described herein) is necessary for the project; and
- (d) Whether the offer required by section 7267.2 (a) of the Government Code has been made to the owner or owners of record.

The purpose and objectives of the Agency's Redevelopment are to eliminate the conditions of blight and to prevent the recurrence of blighting conditions within the Project Area. The Agency proposes to eliminate such conditions and prevent their recurrence by providing, pursuant to the Redevelopment Plan, for the planning, development, replanning, redesign, clearance, redevelopment, reconstruction and rehabilitation of the Project Area and by providing for such structures and spaces as may be appropriate or necessary in the interest of the general welfare, including without limitation, recreational and other facilities incidental or appurtenant to them. The Agency further proposes to eliminate the conditions of blight still existing in the Project Area and prevent their recurrence by providing for the alteration, improvement, modernization, reconstruction or rehabilitation of existing structures in the Project Area and by providing for open space types of uses, public and private buildings, structures, facilities, and improvements. The Agency further proposes to eliminate such conditions and prevent their recurrence by providing for acquisition, construction or rehabilitation of housing for low and moderate income families, including without limitation seniors and handicapped persons.

The Redevelopment Plan states that the Agency may purchase, lease, obtain option upon or otherwise acquire any interest in real property by gift, devise, exchange, purchase, or any other means authorized by law, including the use of eminent domain for the purpose of redevelopment.

The property is located in the northwest quadrant of the City. The property has a land area of approximately 29,106 square feet, and is improved with a teardown single-family residence. The residence is uninhabitable and in a state of great disrepair.

The Agency hired an independent appraiser to determine the fair market value of the property. Once the independent appraiser determined the fair market value, the Agency offered the full appraisal value to the property owner, Bertha B. Knable, as required by Government Code section 7267.2 on November 20, 2003.

Here, the public interest and necessity requires the property for the rehabilitation of the Project Area. The taking of the property is planned and located in a manner consistent with the greatest public good and least private injury and necessary to further the Agency's goals and objectives, specifically to provide decent, safe and sanitary housing for persons of low income.

ALTERNATIVE TO STAFF RECOMMENDATION:

Do not adopt the Resolution of Necessity.

FINANCIAL IMPACT

The total appraised cost for acquiring the property is \$124,000.

RESOLUTION NO. _____

A RESOLUTION OF THE LOMA LINDA REDEVELOPMENT AGENCY AUTHORIZING AND DIRECTING THE ACQUISITION, BY EMINENT DOMAIN, OF CERTAIN REAL PROPERTY LOCATED IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA AND DECLARING THE PUBLIC NECESSITY THEREFOR

WHEREAS, the Loma Linda Redevelopment Agency ("Agency") is a public corporation in body and politic, organized and operating pursuant to the Community Redevelopment Law, Health and Safety Code section 33000 et seq., and is authorized to take properties by condemnation and to hold, use and enjoy such properties as necessary to fully exercise its powers; and

WHEREAS, the acquisition of certain properties within the Agency's merged redevelopment Project Area ("Project Area") is an integral part of Agency Redevelopment goals and objectives and is an integral part of the Redevelopment Plan. The Project Area contemplates the construction of affordable housing for the community. The elimination of blight, redevelopment of the Project Area, achieving other public purposes, in particular implementing the Redevelopment Plan, in fee simple, of certain real property and interests therein (the "Project"); and

WHEREAS, the Agency is specifically authorized by virtue of Health and Safety Code Sections 33342 and 33391 and other provisions of the statutes of the State of California to take any property or interests in property necessary to carry out the business of the Agency by condemnation, such power to be exercised pursuant to the provisions of section 1230.020 et seq. of the Code of Civil Procedure; and

WHEREAS, in accordance with the California Environmental Quality Act (Pub. Res. Code, § 21000 et seq.; "CEQA") and its implementing regulations (14 Cal. Code Regs., § 15000 et seq.), the potential environmental impact of the proposed acquisition was evaluated in a Negative Declaration, which Negative Declaration was considered and adopted by the Agency pursuant to Resolution No. 154 on January 25, 2000; and

WHEREAS, the legal notice of intention to adopt a resolution of necessity to acquire by eminent domain the hereinafter described property in fee simple was duly given by the Agency on January 7, 2004 pursuant to and in compliance with the requirements of Code of Civil Procedure section 1245.235 and which notice advised of a hearing by the Agency; and

WHEREAS, a public hearing was held by the Agency on January 27, 2004, at which the matters set forth in Code of Civil Procedure section 1240.030 were considered, including the following matters:

- (a) Whether the public interest and necessity require the project;
- (b) Whether the project is planned and located in the manner that would be most compatible with the greatest public good and the least private injury; and
- (c) Whether the property sought to be acquired (which is described herein) is necessary for the project; and

- (d) Whether the offer required by section 7267.2 (a) of the Government Code has been made to the owner or owners of record.

WHEREAS, the Agency has provided all persons a reasonable opportunity to appear and be heard on those matters referred to in section 1240.030 of the Code of Civil Procedure; and

WHEREAS, at such hearing, information on the project and the matters set forth in this resolution were presented to the Agency Board by the Agency staff.

NOW, THEREFORE, THE REDEVELOPMENT AGENCY BOARD OF THE LOMA LINDA REDEVELOPMENT AGENCY DOES HEREBY RESOLVE:

Section 1. The public interest and necessity require the acquisition of the property described herein. The Agency Board finds that the acquisition of the herein described property is necessary to advance the business of the Agency, which property is generally located at Poplar Street, Loma Linda, California (San Bernardino County APN No. 0283-141-33).

Section 2. The public interest and necessity require the acquisition and taking of fee simple interest of the described real property for redevelopment and related purposes, which uses are public uses authorized by law. Health and Safety Code Sections 33342 and 33391, among other provisions of the statutes of the State of California, permit and empower this acquisition by the Agency through its exercise of the power of eminent domain for the stated public use.

Section 3. The real property sought to be condemned is legally described in Exhibit "A" and its location is depicted on Exhibit "B," attached to this resolution and hereby fully incorporated by this reference.

Section 4. The offer required by Government Code section 7267.2 (a) has been made to the owner or owners of record.

Section 5. The taking and acquiring by the Agency of the property described herein is deemed necessary for the Project and for redevelopment purposes, among other things, and the Project is planned and located in a manner most compatible with the greatest public good and the least private injury.

Section 6. The potential environmental effects of the Project were evaluated in a Negative Declaration, which Negative Declaration was considered and adopted by the Agency pursuant to Resolution No. 154 on January 25, 2000.

Section 7. As to any portion of the property that is currently appropriated for a public use, the use to which the property is sought to be taken is a more necessary public use, and the Agency is empowered to take for a more necessary public use pursuant to Code of Civil Procedure section 1240.610.

Section 8. The law firm of Stradling Yocca Carlson & Rauth is authorized, empowered, and directed to prepare, commence, and prosecute an eminent domain action or actions in the Superior Court of the State of California in and for the County of San Bernardino in the name and on

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behalf of the Loma Linda Redevelopment Agency against all owners and persons and entities claiming or having interests in the above described property, for the purpose of performing and carrying out all proceedings and steps incident to the condemnation and the acquisition of the property, including obtaining warrants for deposit of funds, orders for prejudgment possession, and other steps necessary to acquire fee simple title to the subject property by and for the Loma Linda Redevelopment Agency.

PASSED, APPROVED, AND ADOPTED this 27th day of January 2004 by the following vote:

Ayes:

Noes:

Abstain:

Absent:

Robert Ziprick, Chairman
Loma Linda Redevelopment Agency

ATTEST:

Pamela Byrnes-O'Camb, Agency Secretary

APPROVED AS TO FORM:

Stradling, Yocca, Carlson & Rauth

Resolution No.

EXHIBIT "A"

Legal Description

APN 0283-141-33

PORTION OF THE NORTH 4 ACRES OF THE SOUTH 9 ACRES OF THE EAST 40 ACRES OF LOT 14, BLOCK 75, OF 80 ACRE SURVEY OF SAN BERNARDINO RANCHO, AS PER PLAT RECORDED IN BOOK 7 OF MAPS, PAGE 2, RECORDS, OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID TRACT; THENCE ALONG THE NORTH LINE THEREOF FOR A DISTANCE OF 461 FEET; THENCE IN A SOUTHERLY DIRECTION PARALLEL WITH THE WESTERLY LINE OF SAID TRACT FOR A DISTANCE OF 66 FEET; THENCE IN A WESTERLY DIRECTION PARALLEL WITH THE NORTH LINE OF SAID TRACT TO THE INTERSECTION WITH THE WEST LINE OF SAID TRACT; THENCE ALONG THE WEST LINE OF SAID TRACT NORTH TO THE POINT OF BEGINNING.

EXCEPT A STRIP OF LAND 20 FEET WIDE OFF THE WEST AND THEREOF RESERVED FOR ROADWAY PURPOSES.

Loma Linda City
Tax Rate Area
13010

8/8/02 GW
3/6/03 LH
3/9/01 LH
6/6/02 GH